

REMARKS

In response to the Office Action dated June 30, 2005, Applicants submitted an Amendment "B" with a two month extension of time. The Amendment "B" included, *inter alia*, an amendment to Claim 11 and a status indicator that Claim 11 is (Currently Amended). The Claim 11 was amended to add ", wherein". The text added to Claim 11 by amendment was inadvertently not underlined. A corrected Claims section was submitted on March 1, 2006, and included the amended text of Claim 11 with the proper status indicator (Currently Amended) and with the added text shown with underline.

In a second Notice of Non-Compliant Amendment dated May 16, 2006, the corrected claims section filed on March 1, 2006, was refused entry for the stated reason that, "[D]ouble bracket (sic) should be used for five and fever (sic) character (sic) if strikethrough cannot be easily perceived, e.g. Calim (sic) 1 line 3 [[to]] (sic),. (sic)"

First, the corrected claims section are in compliance with the 37 CFR §1.121, wherein part (c)(2) provides, "[T]he text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot easily be perceived." In the PTO's Revised Amendment Practice paper, the examples provided for strike-through that cannot be easily perceived are deletion of the number "4" or certain punctuations marks.

Here, the deleted text is the word "to". This is neither the number 4 nor a punctuations mark. The word "to" when marked with a strikethrough, as "tø", can be readily perceived. The strikethrough passes below the crossbar of the "t" and clearly through the "o".

As further illustration, a comparison of deletion of “4” and “to” follows:

without strikethrough 4, with strikethrough 4

without strikethrough to, with strikethrough to

Further, the deletion of this word was perceived by the reviewer, since it was pointed out by the reviewer in the action of May 16, 2006. As such, the reviewer’s pointing out of the word and then alleging that it cannot be easily perceived is contradictory on its face.

As such, the strikethrough is easily perceived and the basis for the non-compliant notice is in error.

If the strikethrough can be easily perceived, as shown, the use of the double brackets for five or fewer characters is permissive (may be used), not mandatory.

As an observation of this Notice on the Patent Office’s stated policies, the Commissioner for Patents gave a speech in Chicago stating that the goals of the patent office are to reduce the exchange of papers that do not further prosecution of the patent application in an effort to reduce the backlog of files before the Patent Office. Surely, the present Notice has not provided meaningful forward progress in the examination of this application. Instead, it is best characterized as a waste of time and paper. Further, the single sentence of added text in the Notice was not even proofread enough to avoid the eight typographic and spelling errors it contains. Such lack of care in the handling of cases should be addressed by supervisory authority at the PTO.

The enclosed replacement claim section has been changed to provide double brackets for the deletion of the word “to” and thereby overcomes the issue raised in the Notice.

Favorable reconsideration and allowance of the application is hereby requested.

Respectfully submitted,



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on June 16, 2006.



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